

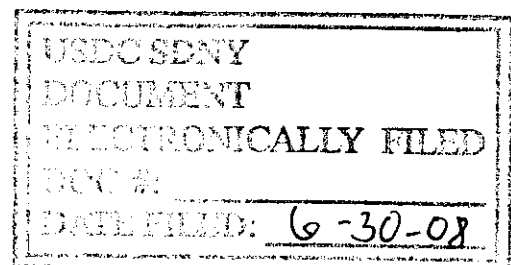
ENDORSEMENT

Lidle, et al. v. Cirrus Design Corp.
08 Civ. 1253 (BSJ)(HBP)

Plaintiffs' application, made by letter, dated June 13, 2008, to compel the production of interrogatory responses and documents is denied.

Plaintiffs seek supplemental responses and documents in answer to "certain Special Interrogatories and Requests for Production of Documents" served on Defendant prior to the removal of this case from the Superior Court for the State of California to federal court. Now that this case has been removed to federal court, however, discovery is governed by the Federal Rules of Civil Procedure. See Fed.R.Civ.P. 81(c); Granny Goose Foods, Inc. v. Brotherhood of Teamsters & Auto Truck Drivers Local No. 70, 415 U.S. 423, 437-38 (1974) (discussing Ex parte Fisk, 113 U.S. 713, 725-26 (1885)); Yonkosky v. Hicks, 409 F. Supp.2d 149, 151 (W.D.N.Y. 2005). Discovery requests pending at the time of removal are governed, as well, by the Federal Rules of Civil Procedure and the local rules of this court. See McIntyre v. K-Mart Corp., 794 F.2d 1023, 1025 (5th Cir. 1986) (rejecting plaintiffs' argument that interrogatories served in accordance with state court rules prior to removal were to be answered under state law); see also 14C Charles A. Wright, Arthur M. Miller & Edward M. Cooper, Federal Practice & Procedure § 3738 at 390-91 (3d ed. 1998) ("After the removal of an action from state court, the federal district court acquires full and exclusive subject matter jurisdiction over the litigation. The case will proceed as if it had been brought in the federal court originally.").

To the extent Plaintiffs are seeking to compel the production of responses to interrogatories, the interrogatories annexed as Exhibits A-F to Plaintiffs' June 13, 2008 letter do not conform to Fed.R.Civ.P. 33(a) or to Local Civil Rule 33.3. With respect to Plaintiffs' document requests, the January 2008 and May 2008 meet and confers described in the June 13 letter were not in compliance with Local Civil Rule 37.3, requiring parties meet and confer "in good faith in person or by telephone in an effort to resolve the dispute."



For these reasons, Plaintiffs' application is denied without prejudice.

Dated: New York, New York
June 30, 2008

SO ORDERED


HENRY PITZMAN
United States Magistrate Judge

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